Russell D. Munves, p. 12

Robert Russell's deposition testimony does not undermine the Court's prior holding on this issue in any way. AAI's assertion that "[i]n Robert Russell's final deposition . . . he finally admitted that The Yield Book at all times generates sequences of only ^{Redacted} dimensions, not ^{Redact} or ^{Redacted} . . ," AAI's Apr. 30, 2012 Letter at 14, is based on a disingenuous excerpt from Mr. Russell's deposition transcript in which Mr. Russell, confronted with code written almost a decade before, testified that his "initial conclusion" was that the particular function he was reviewing generated only sequences of ^{Redacte} time intervals. Russell Tr. 375:13-18 (discussing Y.K. Chan Aug. 2, 2007 Dep. Ex. 1). Immediately after making this statement, Mr. Russell acknowledged that "code is tricky" and that "I've been wrong innumerable times." Id. 375:17-18. In addition, Mr. Russell later clarified later during the same deposition that while the code appeared to generate "random number sequences . . . of ^{Redacte} time intervals[,] . . . not all of those time intervals are used in the calculation of interest rate paths." Id. 517:15-24. Mr. Russell also answered questions concerning how this process would work, explaining that "there's a flag that gets set, depending upon the security, that makes the determination" of how many paths to generate. Id. 526:23-25. This is consistent with Y.K. Chan's testimony, where he explained that ^{Redacted} "is the maximum [number of time periods] allowed" but that the "actual number of periods used" is "defined in a different place and passed in as part of the structure called grid." Y.K. Chan Aug. 2, 2007 Dep. Tr. 102:24-103:6. That you personally deposed Mr. Russell and Mr. Chan and asked them both about this very topic makes AAI's attempt to use a misleading sliver of testimony in support of its wild-eyed conspiracy theories about fabricated sequences all the more outrageous.[6]

---

[6]   AAI's assertion that Dr. Radak's declaration dated September 1, 2007 was deficient in any way is likewise without merit. Dr. Radak's declaration accurately stated that the disks produced to AAI on July 16 and August 17, 2007 "included all versions of the Yield Book sequences using fewer than 1000 paths as of the following dates: October 1, 1994, November 1, 1999, September 1, 2000, October 1, 2000, November 1, 2000, February 1, 2005 and June 29, 2007, in the forms identified in the chart attached to [that] declaration." Radak Decl. ¶ 3. Contrary to your suggestion, that declaration was not a "carefully drafted, misleading" document designed to provide Defendants with the means of hiding the existence of other relevant sequences. AAI's Apr. 30, 2012 Letter at 14; see also id. (asserting that Dr. Radak "deliberately avoided defining what he meant by "the Yield Book sequences"). Prior to Dr. Radak's declaration, Defendants had agreed "with AAI to define the term 'Yield Book sequences' ... to include all sequences used in connection with a Monte Carlo simulation with 200 or fewer paths and available to users of the Yield Book, whether used internally by defendants or externally." Defendants' July 16, 2007 Letter at 1-2. The purpose and effect of Dr. Radak's declaration was to confirm that those sequences, as well as the 1000 path sequences Defendants were subsequently directed to produce, had in fact been produced. As Defendants explained in their August 18, 2011 Letter, whether or not Dr. Radak had access to The Yield Book RCS directory when collecting Defendants' sequences is irrelevant because "The Yield Book does not generate its own sequences, but instead uses those created by the Mortgage Research group." Defendants' Aug. 18, 2011 Letter at 3 n.2; see also Hayre Tr. 175:16-176:6 ("Q. Now, does The Yield Book create their own sequences? A. No. I mean, they take our models. Q. So any sequence that's used in The Yield Book was given to them by [the] fixed income [group]? A. Yes."). Indeed, Dr. Radak directly addressed this issue during his deposition: "Q. How did you know that the sequences you produced were being used in the yield book? A. Because they take our code and -- and use it with their front end to make it available to clients." Radak Tr. 49:24-50:5.